

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 214

SENATE BILL 1162

AN ACT

AMENDING SECTIONS 20-167, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 58, SECTION 3 AND CHAPTER 205, SECTION 6; REPEALING SECTION 20-167, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 1; AMENDING SECTIONS 20-224, 20-291, 20-401.05, 20-419 AND 20-466, ARIZONA REVISED STATUTES; AMENDING SECTION 20-485.12, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 3; AMENDING SECTION 20-1003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 4; AMENDING SECTION 20-1004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 5; AMENDING SECTION 20-1095.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 6; AMENDING SECTION 20-1095.06, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 7; AMENDING SECTION 20-1096.04, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 8; AMENDING SECTION 20-1096.05, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 9; AMENDING SECTION 20-1802, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 11; AMENDING SECTION 20-1807, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 12; RELATING TO THE DEPARTMENT OF INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-167, Arizona Revised Statutes, as amended by
 3 Laws 2001, chapter 58, section 3 and chapter 205, section 6, is amended
 4 effective from and after June 30, 2002, to read:

5 20-167. Fees

6 A. The director shall collect in advance the following fees, AS
 7 ADJUSTED PURSUANT TO SUBSECTION F OF THIS SECTION, which are nonrefundable
 8 on payment:

	Not Less Than:	Not More Than:
9		
10 1. For filing charter documents:		
11 (a) Original charter documents,		
12 articles of incorporation,		
13 bylaws, or record of		
14 organization of insurers,		
15 or certified copies thereof,		
16 required to be filed with		
17 the director and not also		
18 subject to filing in the		
19 office of the corporation		
20 commission	\$ 25.00	\$ 75.00
21	\$ 40.00	\$ 115.00
22 (b) Amended charter documents	10.00	30.00
23	15.00	45.00
24 (c) No charge or fee shall be		
25 required for filing with		
26 the director any of such		
27 documents also required		
28 by law to be filed in the		
29 office of the corporation		
30 commission		
31 2. Certificate of authority:		
32 (a) Issuance:		
33 Fraternal benefit societies	\$ 10.00	\$ 30.00
34	\$ 15.00	\$ 45.00
35 Medical or hospital service		
36 corporations, HEALTH CARE		
37 SERVICES ORGANIZATIONS OR		
38 PREPAID DENTAL PLAN		
39 ORGANIZATIONS	25.00	75.00
40	40.00	115.00
41 MEDICAL REIMBURSEMENT		
42 REINSURERS	150.00	450.00
43 All other insurers	65.00	195.00
44	100.00	295.00

1	(b) Renewal:		
2	Fraternal benefit societies	10.00	30.00
3		15.00	45.00
4	Medical or hospital service		
5	Corporations, HEALTH CARE		
6	SERVICES ORGANIZATIONS OR		
7	PREPAID DENTAL PLAN		
8	ORGANIZATIONS	25.00	75.00
9		40.00	115.00
10	DOMESTIC STOCK LIFE INSURERS,		
11	DOMESTIC STOCK DISABILITY		
12	INSURERS OR domestic stock		
13	life and disability insurers		
14	only or either	500.00	1,500.00
15		750.00	2,250.00
16	DOMESTIC LIFE REINSURERS, DOMESTIC		
17	DISABILITY REINSURERS OR domestic		
18	Life and disability reinsurer only		
19	or either REINSURERS	\$1,500.00	\$4,500.00
20		\$2,250.00	\$5,500.00
21	MECHANICAL REIMBURSEMENT REINSURERS	2,250.00	5,500.00
22	All other insurers	45.00	135.00
23		70.00	205.00
24	3. CERTIFICATE OF REGISTRATION AS AN		
25	ADMINISTRATOR OR APPLICATION FOR		
26	RENEWAL UNDER SECTION 20-485.12	\$ 100.00	\$ 295.00
27	4. AUTHORITY TO SOLICIT APPLICATIONS		
28	FOR AND ISSUE POLICIES BY MEANS		
29	OF MECHANICAL VENDING MACHINES	\$ 30.00	\$ 90.00
30	5. SERVICE COMPANY PERMIT	\$ 150.00	\$ 450.00
31	6. APPLICATION FOR MOTOR VEHICLE		
32	SERVICE CONTRACT PROGRAM APPROVAL	\$ 150.00	\$ 450.00
33	7. LIFE CARE CONTRACT APPLICATION		
34	OR ANNUAL REPORT	\$ 225.00	\$ 675.00
35	3. 8. Filing annual statement	100.00	300.00
36		150.00	450.00
37	9. ANNUAL STATEMENT FILING FOR EXEMPT INSURER		
38	TRANSACTIONING LIFE INSURANCE, DISABILITY		
39	INSURANCE OR ANNUITY BUSINESS PURSUANT TO		
40	SECTION 20-401.05	\$ 65.00	\$ 100.00
41	4. 10. Licenses and examinations:		
42	(a) Licenses:		
43	Surplus lines broker's license,		
44	biennially	200.00	600.00
45		300.00	900.00

1	All other licenses, biennially	20.00	60.00
2		30.00	90.00
3	(b) Examinations for license:		
4	Examination on laws and one kind		
5	of insurance	5.00	15.00
6		8.00	25.00
7	Examination on laws and two or		
8	more kinds of insurance	10.00	30.00
9		15.00	45.00
10	5. 11. Miscellaneous:		
11	Fee accompanying service of		
12	process upon director	\$ 5.00	\$ 15.00
13		\$ 8.00	\$ 25.00
14	Certificate of director, under seal	1.00	3.00
15		1.50	5.00
16	Copy of document filed in director's		
17	office, per page	0.50	1.50
18			0.75

19 B. The director shall deposit, pursuant to sections 35-146 and 35-147,
 20 all fees for licenses so collected PURSUANT TO THIS SECTION in the state
 21 general fund. No A refund shall be IS NOT allowed for any unused portion of
 22 a fee nor shall fees be prorated, except that the fee for an initial license
 23 if applied for in the second half of the biennial term shall not exceed
 24 one-half of the license fee AND THE DIRECTOR SHALL NOT PRORATE FEES.

25 C. The license fees prescribed by this section shall be payment in
 26 full of all demands for any and all state, county, district and municipal
 27 license fees, license taxes, business privilege taxes and business privilege
 28 fees and charges of every kind.

29 D. Each domestic stock life or disability insurer that pays the
 30 renewal fee required under the provisions of subsection A of this section,
 31 shall be IS entitled to a credit in the amount of AT LEAST four hundred
 32 fifty-five dollars BUT NOT MORE THAN SIX HUNDRED EIGHTY DOLLARS, AS ADJUSTED
 33 PURSUANT TO SUBSECTION F OF THIS SECTION, to apply to the premium tax the
 34 insurer then owes pursuant to section 20-224, but the credit shall IS not be
 35 cumulative.

36 E. Each domestic life and disability reinsurer only or either, which
 37 pays the renewal fee required under the provisions of subsection A of this
 38 section, shall be entitled to a credit in the amount of fourteen hundred
 39 fifty-five dollars to apply to the premium tax then owed by such company
 40 pursuant to the provisions of section 20-224, but such credit shall not be
 41 cumulative.

42 F. E. The director may contract for the examination for the licensing
 43 of adjusters, insurance producers, bail bond agents, risk management
 44 consultants and surplus lines brokers. When IF the director does so, the fee
 45 for examinations for licenses pursuant to this section shall be IS payable

1 directly to the contractor by the applicant for examination. The director
2 may agree to a reasonable examination fee to be charged by the
3 contractor. Such THE fee may exceed the amounts prescribed in subsection A,
4 paragraph 4, subdivision (b) of this section.

5 G. F. Each year DECEMBER 1, if the revenue collected from fees for
6 DURING the prior calendar FISCAL year is less than ninety-five per cent or
7 more than one hundred ten per cent of the appropriated budget for the
8 beginning CURRENT fiscal year, the director shall revise the ALL fees within
9 the limits prescribed by subsection A of this section on a uniform percentage
10 basis among all fee categories and shall adjust the credits CREDIT prescribed
11 by subsections SUBSECTION D and E of this section as necessary in order to
12 retain any required uniformity. THE DIRECTOR SHALL REVISE THE fees shall be
13 revised in such a manner that the revenue derived from the fees DURING THE
14 SUBSEQUENT FISCAL YEAR equals at least ninety-five per cent but not more than
15 one hundred ten per cent of the appropriated budget for the beginning CURRENT
16 fiscal year. , and such THE revised fee schedule shall be effective July 1
17 of the subsequent FISCAL year. FOR THE PURPOSES OF THIS SUBSECTION,
18 APPROPRIATED BUDGET DOES NOT INCLUDE ANY APPROPRIATION FOR THE OPERATION OF
19 THE CAPTIVE INSURANCE PROGRAM ESTABLISHED UNDER CHAPTER 4, ARTICLE 14 OF THIS
20 TITLE. ANY FEES COLLECTED FROM CAPTIVE INSURERS PURSUANT TO SUBSECTION H OF
21 THIS SECTION SHALL NOT BE COUNTED FOR THE PURPOSE OF MEETING THE REQUIREMENT
22 OF THIS SECTION TO RECOVER AT LEAST NINETY-FIVE BUT NOT MORE THAN ONE HUNDRED
23 TEN PER CENT OF THE DEPARTMENT'S APPROPRIATED BUDGET.

24 H. G. The director may contract with a voluntary domestic
25 organization of surplus lines brokers to perform any transaction prescribed
26 in chapter 2, article 5 of this title, including the acceptance or
27 maintenance of the reports required by section 20-408. The director may
28 allow the contractor to charge a stamping fee. The surplus lines broker
29 shall pay the stamping fee established pursuant to this section directly to
30 the contractor.

31 H. CAPTIVE INSURERS SHALL PAY CERTIFICATE OF AUTHORITY ISSUANCE AND
32 RENEWAL FEES AS PRESCRIBED BY THE DIRECTOR.

33 I. For the purposes of subsection H- G of this section, "stamping fee"
34 means a reasonable filing fee charged by a contractor for any transaction
35 prescribed in chapter 2, article 5 of this title, including the acceptance
36 or maintenance of the reports required by section 20-408.

37 Sec. 2. Repeal

38 Section 20-167, Arizona Revised Statutes, as amended by Laws 2001,
39 chapter 327, section 1, is repealed.

40 Sec. 3. Section 20-224, Arizona Revised Statutes, is amended to read:
41 20-224. Premium tax

42 A. On or before March 31 of each year each authorized domestic
43 insurer, and on or before March 1 of each year each other insurer and each
44 formerly authorized insurer referred to in section 20-206, subsection B,
45 shall file with the director a report in a form prescribed by the director

1 showing total direct premium income including policy membership and other
2 fees and all other considerations for insurance from all classes of business
3 whether designated as a premium or otherwise received by it during the
4 preceding calendar year on account of policies and contracts covering
5 property, subjects or risks located, resident or to be performed in this
6 state, after deducting from such total direct premium income applicable
7 cancellations, returned premiums, the amount of reduction in or refund of
8 premiums allowed to industrial life policyholders for payment of premiums
9 direct to an office of the insurer and all policy dividends, refunds, savings
10 coupons and other similar returns paid or credited to policyholders within
11 this state and not reapplied as premiums for new, additional or extended
12 insurance. No deduction shall be made of the cash surrender values of
13 policies or contracts. Considerations received on annuity contracts, as well
14 as the unabsorbed portion of any premium deposit, shall not be included in
15 total direct premium income, and neither shall be subject to tax. The report
16 shall separately indicate the total direct premium income received from fire
17 insurance premiums on property located in an incorporated city or town that
18 procures the services of a private fire company.

19 B. Coincident with the filing of such tax report each insurer shall
20 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a
21 tax of 2.0 per cent of such net premiums, except that the tax on fire
22 insurance premiums on property located in an incorporated city or town which
23 procures the services of a private fire company is .66 per cent, the tax on
24 all other fire insurance premiums is 2.2 per cent and the tax on health care
25 service and disability insurance premiums is as prescribed under sections
26 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to subsection E
27 of this section shall be deducted from the tax payable pursuant to this
28 subsection. Each insurer shall reflect the cost savings attributable to the
29 lower tax in fire insurance premiums charged on property located in an
30 incorporated city or town that procures the services of a private fire
31 company.

32 C. Eighty-five per cent of the tax paid hereunder by an insurer on
33 account of premiums received for fire insurance shall be separately specified
34 in the report and shall be apportioned in the manner provided by sections
35 9-951, 9-952, and 9-972, except that all of the tax so allocated to a fund
36 of a municipality which has no volunteer fire fighters or pension obligations
37 to volunteer fire fighters shall be appropriated to the account of the
38 municipality in the public safety personnel retirement system and all of the
39 tax so allocated to a fund of a municipality which has both full-time paid
40 fire fighters and volunteer fire fighters or pension obligations to full-time
41 paid fire fighters or volunteer fire fighters shall be appropriated to the
42 account of the municipality in the public safety personnel retirement system
43 where it shall be reallocated by actuarial procedures proportionately to the
44 municipality for the account of the full-time paid fire fighters and to the
45 municipality for the account of the volunteer fire fighters. A full

1 accounting of such reallocation shall be forwarded to the municipality and
2 both local boards.

3 D. This section shall not apply to title insurance, and such insurers
4 shall be taxed as provided in section 20-1566.

5 E. Any insurer which paid or is required to pay a tax of two thousand
6 dollars or more on net premiums received during the preceding calendar year,
7 pursuant to subsection B of this section and sections 20-224.01, 20-837,
8 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day
9 of each month from March through August a report for that month, on a form
10 prescribed by the director, accompanied by a payment in an amount equal to
11 fifteen per cent of the amount paid or required to be paid during the
12 preceding calendar year pursuant to subsection B of this section and sections
13 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and
14 payable on or before the fifteenth day of each month and shall be made to the
15 director for deposit, pursuant to sections 35-146 and 35-147.

16 F. Except for the tax paid on fire insurance premiums pursuant to
17 subsections B and C of this section, an insurer may claim a premium tax
18 credit if the insurer qualifies for a credit pursuant to section 20-224.03
19 or 20-224.04.

20 Sec. 4. Section 20-291, Arizona Revised Statutes, is amended to read:

21 20-291. Service of process on nonresident licensees

22 A. Application for and acceptance of any nonresident license pursuant
23 to this article constitutes an irrevocable appointment of the director as the
24 attorney AGENT of the licensee for the acceptance of service of process
25 issued in this state in any action or proceeding against the licensee arising
26 out of the licensing or out of transactions under the license.

27 B. Duplicate copies of any process shall be served on the
28 director. At the time of service the plaintiff shall pay the director the
29 fee prescribed in section 20-167, ~~subsection A.~~ On receiving service the
30 director shall promptly forward a copy by certified mail, return receipt
31 requested, to the licensee at the licensee's last address of record with the
32 director. Process served on the director pursuant to this section
33 constitutes service on the licensee as though the licensee were personally
34 served with process in this state.

35 Sec. 5. Section 20-401.05, Arizona Revised Statutes, is amended to
36 read:

37 20-401.05. Certificate of exemption

38 A. ~~The director shall annually,~~ On July 1 of each year, THE DIRECTOR
39 SHALL grant a certificate of exemption to any insurer transacting a life
40 insurance, disability insurance or annuity business THAT:

41 1. Which Is organized and operated without profit to any person, firm,
42 partnership, association, corporation or other entity.

43 2. Which Is organized and operated exclusively for the purpose of
44 aiding educational or scientific institutions which THAT are also organized

1 and operated without profit to any person, firm, partnership, association,
2 corporation or other entity.

3 3. Which Serves such THE purpose PRESCRIBED IN PARAGRAPH 2 by issuing
4 insurance and annuity contracts only to or for the benefit of such THE
5 educational or scientific institutions or to individuals engaged in the
6 service of such THOSE institutions.

7 4. Which Appoints the secretary of state, and his THE SECRETARY OF
8 STATE'S successors in office, as its true and lawful attorney upon ON whom
9 may be served all lawful process in any action, suit or proceeding in any
10 court by the director of insurance, through the attorney general, or any
11 action or proceeding against such THE insurer brought by someone other than
12 the director of insurance, which appointment shall be IS irrevocable, shall
13 bind such BINDS THE insurer or any successor in interest, shall remain
14 REMAINS in effect as long as there is in force in this state any contract or
15 policy made or issued by such THE insurer or any obligation arising therefrom
16 and shall MUST be processed in accordance with sections 20-401.03 and 20-403.

17 5. Which Is fully and legally organized and qualified to do business
18 and has been actively doing business under the laws of the state of its
19 domicile for a period of at least three years prior to BEFORE its application
20 for a certificate of exemption.

21 6. Which Files with the director for his THE DIRECTOR'S approval a
22 copy of any policy or contract form issued to residents of Arizona THIS
23 STATE.

24 7. Which:

25 (a) Files with the director on or before March 1 of each year a copy
26 of its annual statement prepared pursuant to the laws of its state of
27 domicile, as well as such ANY other financial material as may be requested,
28 including the annual statement or such other financial materials as may be
29 requested relating to any subsidiary or other legal entity operated by such
30 THE insurer under a management contract or other form of agreement, and

31 (b) Coincident with the filing of its annual statement, pays a THE
32 filing fee of ~~sixty-five dollars~~ PRESCRIBED IN SECTION 20-167.

33 8. Which Agrees to submit to periodic examinations as may be deemed
34 necessary by the director.

35 B. ON OR BEFORE MARCH 1 OF EACH YEAR any insurer holding a certificate
36 of exemption shall file with the director ~~on or before March 1 of each year,~~
37 a form of premium tax return prescribed by the director and shall pay the
38 premium tax imposed by section 20-224 on all policies of life insurance and
39 disability insurance in force with residents of this state.

40 C. AFTER A HEARING the director may ~~after a hearing~~ refuse to renew,
41 or may revoke or suspend, a certificate of exemption if he THE DIRECTOR finds
42 that the insurer no longer meets the requirements of this section, or finds
43 that ~~any such~~ THE insurer has violated any provisions of article 6 of THIS
44 chapter 2 of this title.

1 employment for the department. The director shall adopt guidelines for the
2 conduct of investigations that are substantially similar to the investigative
3 policy and procedural guidelines of the department of public safety for peace
4 officers. Fraud unit investigators shall not preempt the authority and
5 jurisdiction of other law enforcement agencies of this state or its political
6 subdivisions. Fraud unit investigators:

7 1. Shall have at least the qualifications prescribed by the Arizona
8 peace officer standards and training board pursuant to section 41-1822.

9 2. Are not eligible to participate in the public safety personnel
10 retirement system established by title 38, chapter 5, article 4 due solely
11 to employment as fraud unit investigators.

12 E. The director may request the submission of papers, documents,
13 reports or other evidence relating to an investigation under this section.
14 The director may issue subpoenas and take other actions pursuant to section
15 20-160. The materials are privileged and confidential until the director
16 completes the investigation. Any documents, materials or other information
17 that is provided to the director pursuant to this section is not subject to
18 discovery or subpoena until opened for public inspection by the director or,
19 after notice and a hearing, a court determines that the director would not
20 be unduly burdened by compliance with the subpoena. The director may use the
21 documents, materials or other information in the furtherance of any
22 regulatory or legal action brought as a part of the director's official
23 duties.

24 F. If the documents, materials or other information the director seeks
25 to obtain by request is located outside this state, the person requested to
26 provide the documents, materials or other information shall arrange for the
27 fraud unit or a representative, including an official of the state in which
28 the documents, materials or OTHER information is located, to examine the
29 documents, materials or other information where it is located. The director
30 may respond to similar requests from other states.

31 G. An insurer that believes a fraudulent claim has been or is being
32 made shall send to the director, on a form prescribed by the director,
33 information relative to the claim including the identity of parties claiming
34 loss or damage as a result of an accident and any other information the fraud
35 unit may require. The director shall review the report and determine if
36 further investigation is necessary. If the director determines that further
37 investigation is necessary, the director may conduct an independent
38 investigation to determine if fraud, deceit or intentional misrepresentation
39 in the submission of the claim exists. If the director is satisfied that
40 fraud, deceit or intentional misrepresentation of any kind has been committed
41 in the submission of a claim, the director may report the violations of the
42 law to the reporting insurer, to the appropriate licensing agency as defined
43 in section 20-466.04 and to the appropriate county attorney or the attorney
44 general for prosecution.

1 H. The director may:

2 1. Share nonpublic documents, materials or other information with
3 other state, federal and international regulatory agencies, with the national
4 association of insurance commissioners and its affiliates and subsidiaries
5 and with state, federal and international law enforcement authorities if the
6 recipient agrees and warrants that it has the authority to maintain the
7 confidentiality and privileged status of the documents, materials or other
8 information.

9 2. Receive documents, materials and other information from the
10 national association of insurance commissioners and its affiliates and
11 subsidiaries and from regulatory and law enforcement officials of other
12 jurisdictions and shall maintain as confidential or privileged any document,
13 material or other information received with notice or the understanding that
14 it is confidential or privileged under the laws of the jurisdiction that is
15 the source of the document, material or other information.

16 3. Enter into agreements that govern the sharing and use of documents,
17 materials and other information and that are consistent with this section.

18 I. A disclosure to or by the director pursuant to this section or as
19 a result of sharing information pursuant to subsection G of this section is
20 not a waiver of any applicable privilege or claim of confidentiality in the
21 documents, materials or other information disclosed or shared.

22 J. The director shall annually assess each insurer as defined in
23 section 20-441, subsection B authorized to transact business in this state
24 up to ~~seven hundred~~ ONE THOUSAND FIFTY dollars, AS ANNUALLY ADJUSTED PURSUANT
25 TO THIS SUBSECTION for the administration and operation of the fraud unit and
26 the prosecution of fraud pursuant to this section. Monies collected shall
27 be deposited, pursuant to sections 35-146 and 35-147, in the state general
28 fund. The director shall annually revise the fee ASSESSMENT AMOUNT in such
29 a manner that the revenue derived from the fees ASSESSMENT equals at least
30 ninety-five per cent but not more than one hundred ten per cent of the
31 appropriated budget of the fraud unit for the prior fiscal year.

32 K. A person, or an officer, employee or agent of the person acting
33 within the scope of employment or agency of that officer, employee or agent,
34 who in good faith files a report or provides other information to the fraud
35 unit pursuant to this section is not subject to civil or criminal liability
36 for reporting that information to the fraud unit.

37 Sec. 8. Section 20-485.12, Arizona Revised Statutes, as amended by
38 Laws 2001, chapter 327, section 3, is amended effective from and after June
39 30, 2002, to read:

40 20-485.12. Certificate of registration; fees; expiration;
41 revocation; civil penalties; violation;
42 classification; injunctive relief; exemption

43 A. No person may claim to be an administrator in this state unless the
44 person holds a valid certificate of registration as an administrator issued
45 by the director.

1 B. An application for a certificate of registration and an application
2 to renew a certificate shall be in the form prescribed by the director and
3 shall be accompanied by ~~a~~ THE fee of not less than sixty-five dollars nor
4 more than one hundred ninety-five dollars, and PRESCRIBED IN SECTION
5 20-167. The fee is not refundable if the application or renewal application
6 is denied. Each application for a certificate shall include the following
7 information and documents:

8 1. A financial statement that is certified by an officer of the
9 applicant on a form acceptable to the director and that includes current
10 financial information covering the ninety days immediately preceding the date
11 that the application is filed with the director. The financial statement
12 shall include the following:

13 (a) A disclosure of the total amount of Arizona funds MONIES projected
14 to be handled for the next calendar year.

15 (b) An income statement and a balance sheet prepared in accordance
16 with generally accepted accounting principles for the two years immediately
17 preceding the date that the application is filed. The applicant shall not
18 submit consolidated income statements or balance sheets.

19 2. All of the administrator's basic organization documents and
20 amendments to these documents, including any articles of incorporation,
21 articles of association, partnership agreement, trade name certificate, trust
22 agreement, shareholder agreement and other applicable document.

23 3. An organizational chart that identifies each member of the holding
24 company system that directly or indirectly controls the administrator and
25 every affiliate the administrator directly or indirectly controls.

26 4. The bylaws, rules, regulations or similar documents that
27 regulate the administrator's internal affairs.

28 5. Biographical affidavits to be completed by the individuals
29 responsible for the administrator's affairs, including affidavits for all
30 members of the board of directors, the board of trustees, the executive
31 committee or any other governing board or committee, the principal officers
32 of the corporation or the partners or members of the partnership or
33 association, shareholders that directly or indirectly hold at least ten per
34 cent of the voting securities of the administrator and any other person who
35 exercises control or influence over the affairs of the administrator. The
36 biographical affidavits shall include information concerning the personal
37 history, business record, insurance experience and other pertinent facts as
38 the director may require, including whether the affiant has been the subject
39 of an investigation by any regulatory authority or has had any license of any
40 type denied, suspended or revoked in any jurisdiction.

41 6. The administrator's complete name and address for all offices in
42 each jurisdiction.

43 7. A declaration that states whether the administrator has:

1 (a) Been previously licensed to transact any kind of insurance in this
2 state or any other jurisdiction and whether that license has been refused,
3 suspended or revoked.

4 (b) Been indebted to any person, including all of the relevant
5 details.

6 (c) Had an administrative agreement canceled, including all of the
7 relevant details.

8 8. The details about the administrator's capacity to collect premiums
9 or administer claims on behalf of the insurer in this state.

10 9. The written notice, approved by the insurer, that the administrator
11 will provide to insured individuals and that advises the insured individuals
12 of the administrator's identity and the relationship between the
13 administrator and the insurer for each executed insurance administrative
14 agreement filed in this state.

15 10. An affidavit signed by an officer of the administrator who is
16 authorized by the administrator to verify the facts stated in the
17 application.

18 C. The director shall issue the certificate of registration unless the
19 director finds that the applicant is not competent, trustworthy, financially
20 responsible or of good personal and business reputation, has had an insurance
21 license denied for cause by any state or has failed to comply with any
22 requirement of this article. The certificate remains in effect until the
23 director suspends or revokes the certificate or until the director accepts
24 the voluntary termination of the certificate. On revocation or termination,
25 the administrator shall immediately deliver the certificate to the director.

26 D. Unless the certificate of registration is surrendered, suspended
27 or revoked, a certificate of registration issued pursuant to this section to
28 an administrator remains in effect for as long as the administrator continues
29 in business in this state and the administrator remains in compliance with
30 all of the requirements applicable to administrators prescribed by this
31 title.

32 E. On or before March 1 of each year, each administrator that has an
33 effective certificate of registration shall file a renewal application with
34 the director, on a form approved by the director, that consists of a
35 financial statement of the administrator's current financial condition,
36 transactions and affairs as of December 31 of the preceding calendar year.
37 The annual financial statement shall include a disclosure of the total amount
38 of Arizona funds MONIES handled for the preceding year, including the income
39 statement and balance sheet required by subsection B of this section and any
40 additional information that the director may require. At least two officers
41 of the administrator shall verify the annual financial statement. The
42 administrator shall include with the annual financial statement the filing
43 fee prescribed by ~~subsection B of this section~~ IN SECTION 20-167. The
44 director may permit an administrator that has failed to file its annual
45 financial statement or pay its fees on time to file the statement and pay the

1 fees if the administrator pays an additional fee to be determined by the
2 director of not more than twenty-five dollars for each day of delinquency.

3 F. The director may request further information from the administrator
4 at any time regarding a previously filed application or the annual financial
5 statement prescribed by subsection E of this section.

6 G. Within thirty days after the change becomes effective, the
7 administrator shall provide the director with written notice of any change
8 in the application on which the certificate of registration was issued and
9 of any change in the administrator's ownership or control.

10 H. After notice and a hearing, the director may either suspend or
11 revoke a certificate of registration for any reason for which the issuance
12 of a certificate could be denied or for any of the following reasons:

13 1. The administrator is in an unsound financial condition or in a
14 condition that renders further administrative services in this state by the
15 administrator hazardous to policyholders, claimants, beneficiaries or any
16 other person.

17 2. The administrator knowingly failed to comply with any lawful order
18 of the director.

19 3. The administrator violated any provision or requirement of this
20 title or any rule adopted by the director pursuant to this title.

21 I. In lieu of or in addition to suspension or revocation, if the
22 director finds grounds pursuant to subsection H of this section to suspend
23 or revoke an administrator's certificate of registration, the director may
24 impose a civil penalty of at least one thousand dollars and not more than ten
25 thousand dollars. The civil penalty is in addition to any other penalties
26 which THAT may be imposed for violations of this title or other laws of this
27 state.

28 J. Any civil penalties imposed pursuant to this section shall be
29 deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

30 ~~K. The fees prescribed by this section shall be adjusted within the~~
31 ~~limits prescribed by this section at the same time and in the same manner~~
32 ~~prescribed by section 20-167, subsection F.~~

33 ~~t.~~ K. Any person who violates any provision of this article other
34 than subsection A of this section is guilty of a class 3 misdemeanor. A
35 person who violates subsection A of this section is guilty of a class 5
36 felony.

37 ~~M.~~ L. If the director believes from evidence satisfactory to the
38 director that a person is violating or is about to violate subsection A of
39 this section, the director may order the person to cease and desist and,
40 through the attorney general, may file a complaint in the superior court in
41 the county in which the person transacts insurance business to enjoin or
42 restrain the person from continuing or engaging in the violation or doing any
43 act in furtherance of the violation. If the director orders the person to
44 cease and desist, the person may request a hearing pursuant to title 41,
45 chapter 6, article 10. If a complaint is filed in superior court, the court

1 has jurisdiction over the proceedings and may enter an order or judgment
2 awarding appropriate relief.

3 Sec. 9. Section 20-1003, Arizona Revised Statutes, as amended by Laws
4 2001, chapter 327, section 4, is amended effective from and after June 30,
5 2002, to read:

6 20-1003. Application for certificate of authority

7 A. An application for a certificate of authority to operate as a
8 prepaid dental plan organization shall be filed with the director in a form
9 prescribed by the director, shall be verified by an officer or authorized
10 representative of the applicant and shall set forth, or be accompanied by,
11 the following:

12 1. A copy of any basic organizational document of the applicant such
13 as the articles of incorporation, articles of association, partnership
14 agreement, trust agreement or other applicable documents and all amendments
15 to such THE documents.

16 2. A copy of any bylaws, rules and regulations or similar document
17 regulating the conduct of the internal affairs of the applicant.

18 3. A list of the names, addresses and official positions of the
19 persons who are responsible for the conduct of the affairs of the applicant,
20 including all members of the board of directors, board of trustees, executive
21 committee or other governing board or committee, the principal officers in
22 the case of a corporation and the partners or members in the case of a
23 partnership or association.

24 4. If the prepaid dental plan organization is a corporation, evidence
25 that the board of directors of such THE corporation includes:

26 (a) Dentists, duly licensed pursuant to title 32, chapter 11, who have
27 contracted with the corporation to render dental service to members.

28 (b) Members of the prepaid dental plan, who shall comprise at least
29 one-third of the members of the board.

30 5. A copy of any contract made or to be made between any providers or
31 persons listed in paragraph 3 of ~~this subsection~~ and the applicant.

32 6. A statement generally describing the prepaid dental plan
33 organization, its dental plan or plans, facilities and personnel, as approved
34 by the director of the department of health services.

35 7. A copy of the form of membership coverage to be issued to the
36 members.

37 8. A copy of the form of any group contract ~~which~~ THAT is to be issued
38 to employers, unions, trustees or other applications.

39 9. Financial statements showing the applicant's assets, liabilities
40 and sources of financial support. If the applicant's financial affairs are
41 audited by independent certified public accountants, a copy of the
42 applicant's most recent regular certified financial statement shall satisfy
43 this requirement unless the director determines that additional or more
44 recent financial information is required for the proper administration of
45 this article.

1 10. A description of the proposed method of marketing the plan, a
2 financial plan which THAT includes a three-year projection of the initial
3 operating results anticipated and a statement as to the sources of working
4 capital as well as any other sources of funding.

5 11. A power of attorney duly executed by such THE applicant, if not
6 domiciled in this state, appointing the director, the director's successors
7 in office and duly authorized deputies as the true and lawful attorney of
8 such THE applicant in and for this state, upon whom all lawful process in any
9 legal action or proceeding against the prepaid dental plan organization on
10 a cause of action arising in this state may be served.

11 12. A statement reasonably describing the geographic area or areas to
12 be served, as approved by the director of the department of health services.

13 13. ~~A THE fee of not less than twenty-five dollars nor more than~~
14 ~~seventy-five dollars~~ PRESCRIBED IN SECTION 20-167 for issuance of a
15 certificate of authority.

16 14. Such ANY other information as the director may require.

17 B. Within ten days following AFTER any significant modification of
18 information previously furnished pursuant to subsection A OF THIS SECTION,
19 a prepaid dental plan organization shall file notice of such THE modification
20 with the director.

21 ~~C. The fees prescribed by this section shall be adjusted within the~~
22 ~~limits prescribed by this section at the same time and in the same manner~~
23 ~~prescribed by section 20-167, subsection F.~~

24 Sec. 10. Section 20-1004, Arizona Revised Statutes, as amended by Laws
25 2001, chapter 327, section 5, is amended effective from and after June 30,
26 2002, to read:

27 20-1004. Issuance of certificate of authority

28 ~~A.~~ Issuance of a certificate of authority shall be granted by the
29 director if the director is satisfied that the following conditions are met:

30 1. The persons responsible for conducting the affairs of the prepaid
31 dental plan organization are competent and trustworthy and are professionally
32 capable of providing or arranging for the provision of services offered.

33 2. The prepaid dental plan organization constitutes an appropriate
34 mechanism to achieve an effective prepaid dental plan, in accordance with
35 regulations issued by the director of the department of health services,
36 which THAT shall include at least the basic dental services appropriate to
37 such THE plan as determined by the director of the department of health
38 services.

39 3. The prepaid dental plan organization is financially responsible and
40 may reasonably be expected to meet its obligations to members and prospective
41 members. In making this determination the director shall consider at least:

42 (a) The financial soundness of the prepaid dental plan's arrangements
43 for services and the schedule of charges used.

44 (b) Any agreement with an insurer, a hospital or a medical service
45 corporation, a government or any other organization for insuring the payment

1 of the cost of prepaid dental services or the provisions for automatic
2 applicability of an alternative coverage in the event of discontinuance of
3 the plan.

4 (c) The sufficiency of an agreement with providers for the provision
5 of prepaid dental services.

6 4. Each officer responsible for conducting the affairs of the prepaid
7 dental plan organization has filed with the director, subject to the
8 director's approval, a fidelity bond in the amount of fifty thousand dollars.

9 ~~B. A certificate of authority shall expire at midnight on June 30 next~~
10 ~~following the date of issuance or previous renewal. If the prepaid dental~~
11 ~~plan organization remains in compliance with this article and has paid a~~
12 ~~renewal fee of not less than twenty-five dollars nor more than seventy-five~~
13 ~~dollars, its certificate shall be renewed.~~

14 ~~C. The fees prescribed by this section shall be adjusted within the~~
15 ~~limits prescribed by this section at the same time and in the same manner~~
16 ~~prescribed by section 20-167, subsection F.~~

17 Sec. 11. Section 20-1095.03, Arizona Revised Statutes, as amended by
18 Laws 2001, chapter 327, section 6, is amended effective from and after June
19 30, 2002, to read:

20 20-1095.03. Qualifications for permit

21 A. The director shall not issue a permit to a service company unless
22 all of the following conditions are met:

23 1. If the applicant is a corporation, the applicant is a solvent
24 corporation incorporated under the laws of this state or another state,
25 district, territory or possession of the United States.

26 2. The applicant furnishes such proof as necessary to the director
27 that the directors and management of the service company are competent and
28 trustworthy and are capable of successfully managing the service company's
29 affairs in compliance with law.

30 3. The applicant files cash, alternatives to cash or a surety bond as
31 required by section 20-1095.04.

32 4. The applicant is in compliance and continues to be in compliance
33 with all applicable laws.

34 5. The applicant pays an THE initial fee of ~~not less than one hundred~~
35 ~~dollars nor more than three hundred dollars. This fee shall be adjusted~~
36 ~~within the limits prescribed by this paragraph at the same time and in the~~
37 ~~same manner prescribed in section 20-167, subsection F.~~

38 B. ~~Nothing in This article is deemed to DOES NOT~~ require the director
39 to determine the actual financial condition or claims practices of any
40 service company, motor vehicle dealer or service contract administrator. The
41 approval of a service contract program or the issuance of a permit indicates
42 only that the entity appears to be financially sound and to have satisfactory
43 claims practices and that the director has no credible evidence to the
44 contrary.

1 vehicle dealers selling the program. Upon ON receiving the notice the motor
2 vehicle dealers shall not continue to sell the program.

3 Sec. 13. Section 20-1096.04, Arizona Revised Statutes, as amended by
4 Laws 2001, chapter 327, section 8, is amended effective from and after June
5 30, 2002, to read:

6 20-1096.04. Qualifications

7 The director shall not issue a certificate of authority to a mechanical
8 reimbursement reinsurer unless all of the following conditions are met:

9 1. The applicant is a corporation incorporated under the laws of this
10 state.

11 2. The applicant furnishes such proof as necessary to the director
12 that the directors and management of the reinsurer are competent and
13 trustworthy and are capable of successfully managing its affairs in
14 compliance with law.

15 3. The applicant makes the deposit as required by section 20-1096.06.

16 4. The applicant is in compliance and continues to be in compliance
17 with all applicable laws.

18 5. The applicant pays ~~an~~ THE initial fee of ~~not less than one hundred~~
19 ~~dollars nor more than three hundred dollars.~~ The fee shall be adjusted
20 ~~within these limits at the same time and in the same manner prescribed by IN~~
21 ~~section 20-167, subsection F.~~

22 Sec. 14. Section 20-1096.05, Arizona Revised Statutes, as amended by
23 Laws 2001, chapter 327, section 9, is amended effective from and after June
24 30, 2002, to read:

25 20-1096.05. Annual reports; renewal of certificate of
26 authority

27 A. Each NO LATER THAN APRIL 1 OF EACH YEAR, A mechanical reimbursement
28 reinsurer shall, ~~on or before April 1 of each year,~~ submit to the director
29 a report written in a form designated by the director and signed by the
30 president and secretary of the reinsurer that clearly indicates the method
31 being used to determine policy and loss reserves and the amount in the policy
32 and loss reserves.

33 B. The reinsurer shall accompany the annual report with an application
34 for renewal of the certificate of authority, together with ~~a~~ THE fee in the
35 amount of ~~not less than one thousand five hundred dollars nor more than four~~
36 ~~thousand five hundred dollars, which shall be adjusted within the limits~~
37 ~~prescribed by this subsection at the same time and in the same manner~~
38 ~~prescribed in section 20-167, subsection F.~~

39 Sec. 15. Section 20-1802, Arizona Revised Statutes, as amended by Laws
40 2001, chapter 327, section 11, is amended effective from and after June 30,
41 2002, to read:

42 20-1802. Permit required; application; definition

43 A. No person may solicit or enter into a life care contract as a
44 provider or as a provider extend the term of an existing life care contract
45 except pursuant to this chapter.

1 B. To qualify for a permit to enter into life care contracts with
2 respect to a particular facility, a person shall file an application for a
3 permit with the department on permit application forms provided by the
4 department which THAT shall include as an exhibit a copy of the proposed form
5 of life care contract to be entered into with residents at each
6 facility. The application shall contain the following information:

7 1. The name and business address of the applicant.

8 2. The name, the address and a description of the physical property
9 of the facility.

10 3. The terms and conditions of the life care contracts to be used by
11 the applicant, including the services to be provided to residents pursuant
12 to the contract and the fees or charges to be paid by residents, including
13 the method of payment of such THE fees or charges.

14 4. If the applicant is ~~other than~~ NOT an individual, such as a
15 corporation, partnership or trust, a statement naming the fiscal year end
16 date that is the last day of a calendar month and the type of legal entity
17 and listing the interest and extent of such interest of each principal in the
18 entity. ~~For the purposes of this section, "principal" means any person or~~
19 ~~entity having a ten per cent or more financial interest or, if the legal~~
20 ~~entity is a trust, each beneficiary of the trust holding a ten per cent or~~
21 ~~more beneficial interest.~~

22 5. If the applicant is ~~other than~~ NOT an individual, a biographical
23 affidavit on a form approved by the director for each of the members of the
24 board of directors, the officers, the trustees or the managing partners.

25 6. The estimated number of residents of the facility to be provided
26 services by the applicant pursuant to the life care contracts.

27 7. A statement of the provisions that have been made or will be made
28 to provide reserve funding or security by the provider to enable the provider
29 to fully perform his THE PROVIDER'S obligations pursuant to life care
30 contracts, including, ~~but not limited to,~~ the establishment of escrow
31 accounts, accounts in financial institutions, trusts or reserve funds.

32 8. A statement as to whether the applicant was or is affiliated with
33 a religious, charitable or other nonprofit organization, the extent of any
34 affiliation and the extent to which the affiliate organization will be
35 responsible for the financial and contract obligations of the applicant.

36 9. If the applicant is a subsidiary corporation or the affiliate of
37 another corporation, a statement identifying the parent corporation or the
38 other affiliate corporation and the primary activities of such THE parent or
39 other affiliate corporation.

40 10. A description of the business experience of the provider in the
41 operation of similar facilities and, if the facility will be managed on a
42 day-to-day basis by a corporation or organization other than the provider,
43 a description of the business experience of the manager in the operation or
44 management of similar facilities.

1 11. A statement as to whether the applicant, a promoter, a principal,
2 a parent or subsidiary corporation or an affiliate has had any injunctive or
3 restrictive order of a court of record, or any suspension or revocation of
4 any state or federal license or permit, arising out of or relating to
5 business activity or health care applied against it, including without
6 limitation actions affecting a license to operate a foster care facility, a
7 health care institution, a retirement home or a home for the aged.

8 12. A statement of any periodic rates to be initially paid by
9 residents, the method by which such THE rates are determined and the manner
10 by which the provider may adjust such THE rates in the future. If the
11 facility is already in operation, or if the provider operates one or more
12 similar facilities within this state, the statement shall MUST include tables
13 showing the frequency and average dollar amount of each increase in periodic
14 rates at each such facility for the previous five years or such ANY shorter
15 period as the facility may have been operated by the provider.

16 13. A statement of the terms and conditions under which a life care
17 contract may be canceled by the provider or resident, including any health
18 and financial conditions required for a person to continue as a resident and
19 any conditions under which all or any portion of the entrance fee will be
20 refunded by the provider.

21 14. If construction or purchase of the facility has not yet been
22 completed, a statement of the anticipated source and application of the funds
23 MONIES to be used in such THE purchase or construction, including all of the
24 following:

25 (a) An estimate of the cost of purchasing or constructing and
26 equipping the facility including such related costs as financing expense,
27 legal expense, land costs, occupancy development costs and all other similar
28 costs which THAT the provider expects to incur or become obligated for prior
29 to BEFORE the commencement of operations.

30 (b) An estimate of the total entrance fees to be received from
31 residents upon ON completion of occupancy.

32 (c) A description of any mortgage loan or other long-term financing
33 intended to be used for the financing of the facility, including the
34 anticipated terms and costs of such THE financing.

35 (d) An estimate of any funds which THAT are anticipated to be
36 necessary to fund start-up losses and to assure full performance of the
37 obligations of the provider pursuant to life care contracts including, but
38 not limited to, any reserve fund escrow required by the director pursuant to
39 section 20-1806.

40 15. Certified financial statements of the provider, promoter and
41 manager as of a date not more than ninety days prior to BEFORE the date the
42 permit application is filed, which THAT shall include a balance sheet and the
43 related statements of income, retained earnings or equity and changes in
44 financial position for the three most recent fiscal years or such ANY shorter
45 period of time as the provider, promoter or manager has been in existence.

1 Each of these statements shall be prepared in accordance with generally
2 accepted accounting principles and reported upon ON by a certified public
3 accountant in accordance with generally accepted auditing standards. If the
4 fiscal year ended more than ninety days prior to BEFORE the date of filing,
5 the provider shall include an income statement, which THAT need not be
6 certified, covering the period between the date such THE fiscal year ended
7 and a date not more than ninety days prior to BEFORE the date the application
8 is filed.

9 16. A feasibility study which THAT shall include a financial forecast
10 of the life care facility estimating the most probable financial position,
11 results of operations and changes in financial position for the immediately
12 succeeding five year period. The feasibility study must set forth the
13 actuarial assumptions for determining that the project has sufficient
14 revenues and funds, including reserves, for the project to continue as a
15 viable operating concern. The study shall MUST include all of the following:

16 (a) Beginning cash balance, and in the event that operation of the
17 facility has not yet commenced, the beginning cash balance shall be
18 consistent with the statement of anticipated source and application of funds
19 described in paragraph 14.

20 (b) Anticipated earnings on cash reserves.

21 (c) Estimates of net receipts from entrance fees, other than entrance
22 fees included in the statement of source and application of funds required
23 under paragraph 14, less estimated entrance fee refunds and a description of
24 the actuarial basis and method of calculation for the projection of entrance
25 fee receipts.

26 (d) An estimate of gifts or bequests if any are to be relied on to
27 meet operating expenses.

28 (e) A projection of estimated income from fees and charges other than
29 entrance fees, showing individual rates presently anticipated to be charged,
30 including a description of the assumptions used for calculating the effect
31 on the income of the facility of subsidized health services to be provided
32 pursuant to the life care contracts.

33 (f) A projection of estimated operating expenses of the facility,
34 including a description of the assumptions used in calculating the expenses,
35 and separate allowances for the replacement of equipment and furnishings and
36 anticipated major structural repairs or additions.

37 (g) An estimate of annual payments of principal and interest required
38 by any mortgage loan or other long-term financing.

39 17. An actuarial study prepared by a qualified actuary to be submitted
40 with the feasibility study for the purpose of demonstrating that the project
41 has sufficient revenues and funds, including reserves, for the project to
42 continue as a viable operating concern. The actuarial study shall include
43 a cash flow projection, an evaluation of the adequacy of current pricing
44 structures and an analysis of the long-term relationship between the
45 project's assets and liabilities.

1 18. If the feasibility study required by paragraph 16 indicates that
2 the provider will have cash balances over and above two months' projected
3 operating expenses of the facility, a description of the manner in which the
4 reserve funds will be invested and the persons who will be making the
5 investment decisions.

6 C. The application shall be signed under oath by the chief executive
7 officer of the applicant.

8 D. Copies of the escrow agreements executed with an escrow agent
9 pursuant to sections 20-1804 and 20-1806 shall be recorded as exhibits to the
10 application.

11 E. The life care contract shall provide that any person entering into
12 the contract shall have a period of seven days within which to rescind the
13 life care contract without penalty or further obligation beginning with the
14 first full calendar day following the last to occur of the execution of the
15 contract, the payment of an initial sum of money as a deposit or application
16 fee or receipt of a copy of the provider's most recent annual report if the
17 provider has filed an annual report with the director pursuant to section
18 20-1807, or, if the provider has not filed an annual report, a copy of the
19 provider's application. In the event of such A rescission, all money or
20 property paid or transferred by such THE person shall be fully refunded by
21 the provider. No A person shall NOT be required to move into a facility
22 until after the expiration of the seven-day rescission period.

23 F. The director may charge an applicant a ~~THE fee of not less than~~
24 ~~one hundred fifty dollars nor more than four hundred fifty dollars~~ PRESCRIBED
25 IN SECTION 20-167 for processing the application filed pursuant to subsection
26 B of this section. ~~This fee shall be adjusted within the limits prescribed~~
27 ~~by this subsection at the same time and in the same manner prescribed in~~
28 ~~section 20-167, subsection F.~~

29 G. Nothing in this article is ~~deemed to require~~ REQUIRES the director
30 to determine the actual financial condition of any life care contract
31 provider. The approval of a permit indicates only that the entity appears
32 to be financially viable based upon ON the information provided to the
33 director.

34 H. FOR THE PURPOSES OF THIS SECTION, "PRINCIPAL" MEANS ANY PERSON OR
35 ENTITY HAVING A TEN PER CENT OR MORE FINANCIAL INTEREST OR, IF THE LEGAL
36 ENTITY IS A TRUST, EACH BENEFICIARY OF THE TRUST HOLDING A TEN PER CENT OR
37 MORE BENEFICIAL INTEREST.

38 Sec. 16. Section 20-1807, Arizona Revised Statutes, as amended by Laws
39 2001, chapter 327, section 12, is amended effective from and after June 30,
40 2002, to read:

41 20-1807. Annual report; civil penalty

42 A. Each year not later than ninety days after the last day of the
43 provider's fiscal year, each provider shall file with the department an
44 annual report accompanied by a ~~THE fee of not less than one hundred fifty~~
45 ~~dollars nor more than four hundred fifty dollars.~~ The fee shall be adjusted

1 ~~within these limits at the same time and in the same manner prescribed by IN~~
2 ~~section 20-167, subsection F.~~ The annual report shall include the
3 information required by section 20-1802, subsection B, except that the
4 information required by SECTION 20-1802, SUBSECTION B, paragraphs 5, 15 and
5 17 ~~of that subsection~~ shall be filed in accordance with the provisions of
6 subsection C of this section. The annual report need not include the
7 information required by section 20-1802, subsection B, paragraph 16. The
8 annual report shall be made on forms provided by the department. The annual
9 report and any amendment to the annual report shall be signed under oath by
10 the chief executive officer of the provider. For good cause, the director
11 may extend the due date for a provider to file its annual report and pay the
12 required fee.

13 B. A provider shall amend its annual report on file with the
14 department at any time, without the payment of any additional fee, if an
15 amendment is necessary to prevent the annual report from containing a
16 material misstatement of fact or omitting to state a material fact required
17 to be stated.

18 C. Any provider, manager or promoter shall comply with the
19 requirements of this section as follows:

20 1. Information required by section 20-1802, subsection B, paragraph
21 5 shall be filed:

22 (a) Immediately on the substitution or installation of a member of the
23 board of directors or an officer, trustee or managing partner different from
24 the information disclosed in the provider's application or submission
25 pursuant to subdivision (b) ~~of this paragraph~~.

26 (b) Every three years after the initial filing of the biographical
27 affidavit by the provider.

28 2. Certified financial statements required by section 20-1802,
29 subsection B, paragraph 15 for the two most recent fiscal years shall be
30 filed with the annual report by the provider and manager only. The certified
31 financial statements of the promoter shall be filed with the annual report
32 unless the promoter is not currently employed by the provider.

33 3. The actuarial study required by section 20-1802, subsection B,
34 paragraph 17 shall be filed by the provider on a triennial basis beginning
35 with the year in which resident occupancy began at the facility pursuant to
36 the permit issued to the provider. The director may require a provider to
37 file an actuarial study on a more frequent basis if the director deems it
38 necessary and may adjust subsequent triennial filings accordingly.

39 D. A provider shall not change the fiscal year end date disclosed
40 pursuant to section 20-1802, subsection B, paragraph 4 without the prior
41 approval of the director. The director shall approve the change if the
42 commissioner of the internal revenue service grants a request for a change
43 of a fiscal year pursuant to 26 United States Code section 442.

44 E. Assets shall be reported at values determined pursuant to sections
45 20-511 through 20-515. If the director deems it necessary to value any real

1 estate the director may employ one or more competent appraisers for that
2 purpose, and the reasonable expense shall be borne by the provider.

3 F. The director may assess and collect a civil penalty of not more
4 than twenty-five dollars for each day the annual report is late against a
5 provider who fails to file the annual report timely accompanied by the
6 required fee.

7 Sec. 17. Joint legislative budget committee; report

8 The joint legislative budget committee staff shall analyze the fees,
9 assessments and taxes listed in this act and shall report to the joint
10 legislative budget committee by October 1, 2002. The report shall include
11 an analysis of the actual costs of the services for which the fees are
12 charged and discussion of whether the fees are equitable. The department of
13 insurance shall provide information to the joint legislative budget committee
14 staff to assist in this analysis.

15 Sec. 18. Requirements for enactment; two-thirds vote

16 Pursuant to article IX, section 22, Constitution of Arizona, this act
17 is effective only on the affirmative vote of at least two-thirds of the
18 members of each house of the legislature and is effective immediately on the
19 signature of the governor or, if the governor vetoes this act, on the
20 subsequent affirmative vote of at least three-fourths of the members of each
21 house of the legislature.

APPROVED BY THE GOVERNOR MAY 15, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 15, 2002.

Passed the House May 6, 2002

Passed the Senate March 18, 2002

by the following vote: 45 Ayes,

by the following vote: 20 Ayes,

12 Nays, 3 Not Voting
with Article IX, Section 22

8 Nays, 2 Not Voting
with Art. IX, sec 22

[Signature]

Speaker of the House

[Signature]

President of the Senate

[Signature]

Chief Clerk of the House

[Signature]

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

Approved this _____ day of

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

S.B. 1162

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate May 9, 2002

by the following vote: 21 Ayes,

6 Nays, 3 Not Voting

with Art. IX, Sec. 22

Randal Arant
President of the Senate

Charmie B. Winters
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

9 day of May, 2002

at 2:48 o'clock P M.

Jandra Ramirez
Secretary to the Governor

Approved this 15 day of

May, 2002,

at 10:50 o'clock 9 M.

Jane Dee Hull
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 15 day of May, 2002

at 4:39 o'clock P M.

Robert Taylor
Secretary of State